REMARKS

Claims 1-17 were originally submitted.

Claims 1-17 are rejected under the nonstatutory judicially created doctrine of double patenting over claims 1-8 of U.S. Patent 6,675,215.

Claims 1-17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,490,209 to Kennedy et al (Kennedy).

Claims 1-17 remain in this application.

Double Patenting

Claims 1-17 are rejected under the nonstatutory judicially created doctrine of double patenting over claims 1-8 of U.S. Patent 6,675,215 to Cedola (Cedola). The Office presents that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be filed to overcome the rejection and that a registered attorney or agent of record may sign such a terminal disclaimer. A signed terminal disclaimer is submitted with this response.

35 U.S.C. §102

Claims 1-17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,490,209 to Kennedy et al (Kennedy).

Applicant respectfully traverses the rejection of the claims.

Independent claim 1 recites in part "computer-executable instructions to listen at a first baud rate for a predefined message sent from the client computing device; and computer-executable instructions to listen at a second baud rate for the

predefined message in an event that the predefined message is not received at the first baud rate".

Kennedy fails to disclose or teach the operating system of claim 1. Kennedy describes an autobaud detection mechanism that starts at a default baud rate and steps through lower baud rates in searching for a baud rate in which a remote device is transmitting. An incoming call initiates the process described in Kennedy. The incoming call may be any message and is not known by the receiving device. When the incoming call is received, respective data bits of the received data are examined for transmission errors. If a transmission error is detected, the baud rate is stepped to the next lowest baud rate. (See Abstract of Kennedy).

When the incoming call is received, the respective bits of the received data which may be a potentially valid character or message, are stored and the received data pattern is analyzed for the presence of transmission errors such as framing, parity, and overrun. (See col. 2, lines 26-31 of Kennedy).

If a transmission error is detected, it is inferred that what has been received is not a valid character at the current (i.e., initial default) baud rate setting. The baud rate is then incremented (decremented) to step to the next lowest baud rate. (See col. 2, lines 31-34 of Kennedy).

If no transmission error has been detected, it is assumed that the received message is a potentially valid character at the present baud rate setting. The stored bit compositions (specifically, a bit composition that represents a reference character if such a reference character was transmitted as part of the received message) from the received message are compared with a prescribed reference character described in Kennedy as a "carriage return". If the serial composition of

the two compared data bit patterns match, an inference is made that the remote site is transmitting at the current baud rate setting and the receiving device locks the baud rate at the particular baud rate setting for the remainder of the call. (See col. 2, lines 36-44 of Kennedy).

When the autobaud detection routine (i.e., process) has stepped to a new baud entry, the routine initiates a prescribed time-out. Within the time out period, if the receiving device does not receive a further bit pattern, the receiving device reverts to the default baud rate setting and reinitiates the autobaud detection routine. (See col. 2, lines 52-60 of Kennedy).

Claim 1 recites "listen at first baud rate for a predefined message from the client computing device". The Office presents that Kennedy teaches this element, particularly citing the Abstract and col. 2, lines 26-50 of Kennedy. Kennedy describes that the receiving device receives or listens for any incoming call and not a predefined message which is known at the receiving device. The incoming call may be any message, because Kennedy relies on examining the received message for transmission errors and if a transmission error is detected, the baud rate setting is adjusted. Although Kennedy describes the use of a reference character such as a carriage return, the reference character of Kennedy differs in function from the recited "predefined message" of claim 1. The reference character is a single character that may or may not be transmitted – a carriage return is chosen because it is a character that is expected to be transmitted. In theory such a reference character may never be transmitted and subsequently received by the receiving device. The receiving device in Kennedy does not specifically listen or look for the reference character.

Claim 1 further recites "to listen at a second baud rate for the predefined message in an event that the predefined message is not received at the first baud rate". The receiving device of Kennedy does not particularly listen for the reference character, but relies on transmission error examination in the autobaud detection process. Therefore, if the receiving device does not receive the reference character (i.e., a carriage return) the receiving device does not listen at a second baud rate for the reference character. Only if a transmission error is found in the received message does the receiving device step down to another baud rate.

Accordingly, Kennedy does not show every element of claim 1, and the rejection of claim 1 is therefore improper. Accordingly, Applicant respectfully requests that the §102 rejection of claim 1 be withdrawn.

Claims 2-6 are allowable based at the least on their dependency on claim 1. Accordingly, Applicants respectfully request that the §102 rejection of claims 2-6 be withdrawn.

Furthermore, claim 2 recites in part "to listen at the first baud rate for a predetermined period". The Office argues that this is disclosed in col. 5, lines 1-34 of Kennedy; however, the predetermined period described in Kennedy is not directed to the default or first baud rate, but to a new or second baud rate entry. Accordingly, Kennedy does not show this additional element recited by claim 2, and claim 2 is allowable for this additional reason.

Furthermore, claim 3 recites in part "to listen at the second baud rate for the predefined message in an event that error characters not forming part of the predefined message are received at the first baud rate". The Office argues that this is disclosed in col. 4, lines 19-67 of Kennedy; however, as discussed Kennedy describes performing a transmission error examination on any received message.

The transmission error examination is not directed to a particular predefined message. If a transmission error is found in the incoming message, the process steps down to the next or second baud rate; however, the receiving device at the second baud rate is not listening for a predefined message, but is receiving any incoming message. Accordingly, Kennedy does not show this additional element recited by claim 3, and claim 3 is allowable for this additional reason.

Furthermore, claim 4 recites in part "cache the second baud rate in an event that the predefined message is received at the second baud rate". The Office argues that this is disclosed in col. 2, lines 13-24 of Kennedy; however, Kennedy describes storing in a table a series of baud rates, including the default rate. The process described in Kennedy always begins at a default baud rate and steps through the baud rates in the table in looking for the transmission baud rate. Future message receptions always begin at the default baud rate. Kennedy describes that a baud rate is locked onto for the remainder of a particular call (message reception) if no transmission error is received; however, Kennedy does not describe caching the baud rate (See col. 2, lines 43-45 of Kennedy). Accordingly, Kennedy does not show this additional element recited by claim 4, and claim 4 is allowable for this additional reason.

Independent claim 7 recites in part "computer-executable instructions to listen at a first baud rate at which a predefined message might be sent from the client computing device over the serial connection; and computer-executable instructions to switch to listening at a second baud rate if one of the following events occurs: (1) characters not included in the predefined message are received, or (2) a predetermined timeout period expires without successful receipt of the predefined message".

As discussed above, Kennedy is directed to listen for any incoming call and not a predefined message which is known at the receiving device. Also as discussed above, Kennedy performs error checking on the received message not a predefined message, therefore switching to a second baud rate does not occur based on "(1) characters not included in the predefined message are received". Furthermore, as discussed above the time-out period described in Kennedy is directed to the second baud rate not the default or first baud rate.

Accordingly, Kennedy does not show every element of claim 7, and the rejection of claim 7 is therefore improper. Accordingly, Applicant respectfully requests that the §102 rejection of claim 7 be withdrawn.

Claims 8-9 are allowable based at the least on their dependency on claim 7. Accordingly, Applicants respectfully request that the §102 rejection of claims 8-9 be withdrawn.

Claim 8 is additionally allowable for reasons similar to those presented above in support of claim 4.

Independent claim 10 recites in part "listening at a first of multiple baud rates for a predefined message to be sent by a client computing device over a serial connection to a host computer; in an event that characters not included as part of the message are received or the message is not detected within a predetermined time period, listening at a second of the baud rates for the message".

As discussed above, Kennedy does not teach or disclose listening at a first baud rate for a predefined message, and that the transmission error examination performed by Kennedy is performed on any received message. Furthermore the time period described in Kennedy is used for the second baud rate not the first (i.e., default) baud rate.

Accordingly, Kennedy does not show every element of claim 10, and the rejection of claim 10 is therefore improper. Accordingly, Applicant respectfully requests that the §102 rejection of claim 10 be withdrawn.

Claims 11-13 are allowable based at the least on their dependency on claim 10. Accordingly, Applicants respectfully request that the §102 rejection of claims 11-13 be withdrawn.

Claim 12 is additionally allowable for reasons similar to those presented above in support of claim 4.

Independent claim 14 recites in part "listening to a serial connection at a baud rate for a predefined message from a client computing device; and automatically adjusting the baud rate in an event that the message is not detected".

As discussed above, Kennedy does not teach or disclose listening at a baud rate for a predefined message from a client computing device. Kennedy describes adjusting (changing) the baud rate in the event a transmission error is detected, not if the predefined message is not detected (e.g., error in the predefined message or a time out in which the message is not received).

Accordingly, Kennedy does not show every element of claim 14, and the rejection of claim 14 is therefore improper. Accordingly, Applicant respectfully requests that the §102 rejection of claim 14 be withdrawn.

Claims 15-16 are allowable based at the least on their dependency on claim 14. Accordingly, Applicants respectfully request that the §102 rejection of claims 15-16 be withdrawn.

Claim 16 is additionally allowable for reasons similar to those presented above in support of claim 4.

Independent claim 17 recites in part "(c) listening at the selected baud rate for the predefined message; (d) in an event that the predefined message is not received, selecting another of the baud rates".

As discussed above, Kennedy does not teach or disclose listening at a selected baud rate for a predefined message. The receiving device described in Kennedy receives any incoming call or message, and performs transmission error examination which determines if another baud rate is needed. Furthermore, the reference character described in Kennedy may or may not be received – if the reference character is not received, the process described in Kennedy may or may not change to another baud rate. As discussed above, the reference character is only used when the process of Kennedy determines a potentially valid character transmission in the received message.

Accordingly, Kennedy does not show every element of claim 17, and the rejection of claim 17 is therefore improper. Accordingly, Applicant respectfully requests that the §102 rejection of claim 17 be withdrawn.

CONCLUSION

All pending claims 1-17 are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the subject application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

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